

BRIEF TO THE STANDING COMMITTEE ON PUBLIC SAFETY AND NATIONAL SECURITY
44th PARLIAMENT 1st SESSION

“SECURITY BACKGROUND CHECKS: BACKLOG / WORKLOAD”

30 Aug 2024

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Submitted via e-mail to the Clerk of the Committee
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Standing Committee on Public Safety and National Security Sixth Floor
131 Queen Street, Ottawa, Ontario, K1A 0A6

Dear Mr. McKinnon, Respected Committee Members

OBJECTIVE

1. The objective of this submission is to highlight one aspect (Work Load / Priorities) that might have an effect on the effectiveness of the security background checks.

SECURITY SCREENING IS IMPORTANT

2. Keeping Canada safe is an important task. As a Canadian I appreciate the importance of the work that the Canadian Security Intelligence Service, Canadian Border Services Agency's National Security Screening Division (NSSD), Immigration Refugee, Citizenship Canada's Migration integrity Sector and regional police forces are doing for Canadians.

3. The security background checks should:

- a. prevent terror attacks within Canada;

- b. ensure that foreign nationals whom are inadmissible for having committed certain criminal offences, are not becoming residents or citizens;
- c. ensure that foreign nationals whom are inadmissible for having committed actions that leads to inadmissibility pursuant to the Immigration and Refugee Protection Act (such as espionage) are not becoming residents or citizens; and
- d. foreign nationals on blacklists are not being allowed to immigrate to Canada for supporting governments hostile to Canada **or** working in governments involved in human rights violations.

4. The arrest of 2 terror suspects in Toronto sparked an inquiry at the Standing Committee On Public Safety And National Security. The arrest of terror suspects could be symptom of a larger issue and in my opinion the arrest should not be questioned in isolation.

COMPLEX NATURE & BACKLOG OF SECURITY SCREENING

5. The nature of security background checks is complex as it requires (not limited to):

- a. a balance between secrecy and civilian oversight;
 - b. insight into threats to Canada from around the world;
 - c. an in-depth understanding of the world's geopolitical changes;
 - d. immense resources / funding/budgets;
 - e. domestic intra agency cooperation;
 - f. international exchange of intelligence with other non-Canadian agencies;
 - g. personnel with unique language abilities;
 - h. very good information technology to synthesize information to intelligence;
 - i. the modus operandi of security screening to remain secret;
 - j. the abilities of the security agencies to be kept secret;
 - k. warrants to invade the privacy of suspects when gathering evidence (important balance);
 - l. strong skills and abilities to gather evidence that can withstand the scrutiny of the courts; and
- m. large amount of resources which means priorities must be chosen amongst an overload of requests for security screening***

6. The overload in security screening has been reported in the media: It was reported by the CBC on 19 February 2024 that the military must wait 18-24 months for a security screening to be completed. ***“Out of 21,472 permanent resident applications received between Nov. 1, 2022 and Nov. 24, 2023 (the first full year of eligibility), less than one percent were accepted into the regular forces — just 77***

people, according to the Department of National Defence¹ The slow process of security background checks has a detrimental effect in staffing of the Canadian defence force.

7. In Enclosure 1 an extract of an e-mail is provided (Source Lexbase July/Aug 2024, that was obtained via an Access to Information Request). In this e-mail Marcel Bak, an director at the IRCC, refers to a backlog of cases and very importantly touch upon the **reasons** for security background checking: **“Review of reasons: Again, without a breakdown of the reasons for security cases in the inventory, we cannot determine if we actually need more resources or if an impediment exists that prevents us from finalizing.”**

PRIOTIES

8. To ensure the security background checks are effective many actions should be taken such as (not limited to):

- a. budgets are available;
- b. that the correct personnel are recruited and trained;
- c. that relationships with non-Canadian security agencies are maintained;
- d. competent legal advice to be available to ensure operations are within the limits of legislation;
- e. Information technology used in the process works;
- f. that growth of actual threats that results in equal growth of budgets; and
- g. **correct priorities are being selected / limited resources are being used wisely. For example:**
 - **is the security background checks of a Canadian Permanent Resident that applied to join the Canadian Army more, or less important than a foreign engineer that applied to emigrate to Canada ?**
 - **Is a truck driver of a military logistics unit that performed compulsory military service more or less important than a suspected member of an foreign military aggressor ?**

9. This brings me to the issue of priorities and **reasons** (as mentioned by Director Marcel Bak in Enclosure 1) for security background checking: I have been representing South African clients for more than 20 years. Several years ago South Africans that were conscripted into military units for 1-2 years or served as permanent members of the South African armed forces (that could potentially hold risks to Canada, as explained in

¹ <https://www.cbc.ca/news/politics/permanent-resident-military-applications-enrolment-1.7116469>

paragraph 3), was **sometimes** sent for security background checks in Ottawa. This was a very rare occurrence and probably reasonable.

10. Recently we have seen many cases being referred for security background checks from the Canadian visa office in South Africa for South African Citizens that was conscripted (1 or 2-years military service) in low risk appointments such as a truck driver for a logistics unit. **Almost all my clients that were conscripted for 1-2 years** have been sent for security background in Ottawa by the Canadian High Commission in Pretoria, South Africa.

11. Comments about these applicants:

- a. Low risk appointments such as truck drivers are probably not involved in war crimes or other offences or activities involving inadmissibility due to the nature of the work.
- b. South Africa also had an extensive Truth and Reconciliation Committee where perpetrators related to apartheid crimes were prosecuted.
- c. South Africa has a good court system and offenders of serious offences can be prosecuted.
- d. The South African Defence National Defence Force has good archives and provide military service certificates. (See Enclosure 1)

12. The concern is that the filter at the intake of cases that require background security checks **might** not be working effectively. That will result in an unnecessary larger backlog of cases in the queue for security background checks.

13. ***This potential issue is not limited to South African applicants but could be valid for various other groups which could have a much bigger impact on productivity in the security background check process.*** Obtaining information about the current filter system on the intake of cases will probably not be made available as it is expected to be excluded under the Access to Information and Privacy Act.

ACTIONS TAKEN

14. We have completed an Access to Information at IRCC request to determine the intake volume of South Africans for security background checks in an objective manner. This information will be used to test our hypothesis of a significant increase of security background checks for South African Citizens. The result will probably only received in a few months.

15. I have written four e-mails to employees of the IRCC and CBSA since 5 March 2024 but received no response.

THREE SUGGESTIONS

11. **Suggestion 1:** It is hoped that a mechanism can be developed whereby low risk cases (military truck drivers that were conscripted for 1-2 years) are not redirected for security background checks as this result in limited recourses not being used optimally and is not contributing to the safety of Canadians. As explained in paragraph 8 many actions can be taken or are being taken to ensure that security background checks are being done effectively. Ensuring only people (foreign nationals, Canadian citizens and Canadian permanent residents) that poses a risk are being channeled through the process will ensure that the resources are being used productively in security background checking. Therefore a filter should be applied at the intake level. ***If there is a filter already, maybe the filter should be assessed for it's effectiveness.***

12. **Suggestion 2.** IRCC should provide feedback to applicants that their files have been sent for security background checks due to military service and that the expected waiting period is 18 months or whatever the expected waiting period might be. At present the response is **"We are busy with verifications on your application. The verification process is done in Canada, the waiting period is not within the Visa Officers control."** This response is keeping the applicants and employers in the dark as they simply have no idea why this is happening. Employers must plan for their businesses but cannot do this blindly when basic information are not being released. Informing applicants / employers about the expected waiting period for a foreign worker and the purpose of the checking, will not jeopardise the integrity of the process. The current vague response result in:

a. Inquiries to the Members of Parliament whom are making inquiries to the offices of the relevant Ministers were taxpayers money are being wasted with inquiries that could have been prevented.

b. Unnecessary Access to Information and Privacy requests are being submitted to determine the progress of the file or what is being checked, which waste more taxpayer's money.

c. Business inefficiency and lower productivity as Canadian employers do not know when the temporary foreign workers (that will become permanent residents/immigrants) or immigrants with job offers will arrive in Canada (due to security background checks).

d. Litigation which is wasting more of the tax payers money. Given the federal government historical high debt that was made on behalf of the taxpayers, each opportunity should be taken to decrease the deficit. Transparency about the nature of the "verification" and expected waiting periods might assist to prevent litigation.

Suggestion 3: The Standing Committee on Public Safety and National Security should consider to request information about the backlog of security background checks and the plans of different departments to take appropriate actions to decrease the backlog. A large backlog could result in information about certain threats being missed.

Enclosures

1. Extract of an email dated 4 Oct 2023 (From Lexbase July /Aug 2024)
2. Example of a letter confirming South African Military Service

APPENDIX 1

Source: Lexbase July/Aug 2024

“Centralization of Security Cases”

Marcel Bak, Director, Permanent Resident and Target Management, International Network - Strategic Planning and Delivery to Matthew Malamud, a/Director, Security & Exceptional Cases Division, Case Management Branch Immigration – October 4, 2023

*“I will start by saying that we believe that **IN officers** already have the expertise and training to do security cases, but what they lack is time, usable briefs and good [exempted] to be able to finalize many of these security cases. With a department that is prioritizing volume production on TR and PR, our **IN officers will tend to choose finalizing 100 TRVs over finalizing a couple of complex files.**”*

“Some specific comments on the deck.”

“Overview of Security Cases Backlog: Is this an inventory for all ongoing security cases or a backlog for only those outside a certain timeframe?”

*Of course **IN TR security inventory** would be larger than **DN** since **DN** only started processing **TR** through **worksharing** this year. We also need to compare backlog with overall volumes as there should be a realization that there will always be a working inventory and we cannot expect to go to zero even if we established a hub.”*

*“Review of reasons: Again, **without a breakdown** of the reasons for security cases in the inventory, we cannot determine if we actually need more resources or if an impediment exists that prevents us from finalizing.”*

*“Comparison with DN hub: Proposal indicates “Based on the successes in reducing the security cases backlog in the **DN**” but it would be more telling if we could quantify that reduction as we still indicate that DN has old applications from the 2000s.”*

*“Strategic TDs: Interesting idea to explore as we have worked with **LMB [Litigation Management Branch]** previously to reduce redetermination backlogs with one of their experienced decision-makers. Instead of a centralized hub (in **IN** or **CMB**) that would take over all security cases, we could perhaps explore a **Centre of Expertise** approach where it could focus on “**unblocking issues**” or supporting **IN officers** (and perhaps **DN hub**)...”*



the sandf

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0001


27 January 2021

To whom it may concern

REQUEST FOR INFORMATION: [REDACTED] **PRIVATE** [REDACTED]

1. Thank you for the request dated 26 December 2020.
2. According to the records in the Department of Defence Archives [REDACTED] RR [REDACTED] (ID No. [REDACTED]) served in the South African Army from 14 January 1986 to 18 December 1987 and he completed his compulsory military service honourably.

Yours faithfully



(M.M. MABASA)
PP

CHIEF OF THE SOUTH AFRICAN NATIONAL DEFENCE FORCE: GENERAL

DEPARTMENT OF DEFENCE
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